THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15837 OF 2006

1st AUGUST, 2006

BETWEEN

Gram Panchayat Podili, rep.by Panchayat Secretary.

... Petitioner

vs.

The Joint Collector, Prakasam District, Ongole and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15837 OF 2006

ORDER:

Gram Panchayat, Podili, filed the instant writ petition assailing the order/proceedings of the Joint Collector, dated 21.02.2006, contending that the assignment of land in favour of the fourth respondent without consent of Gram Panchayat is illegal.

The brief fact of the matter is as follows. On a request made by the fourth respondent, Mandal Revenue Officer, Podili (MRO), assigned house site admeasuring Acs.0.01½ cents in survey No.205 of Podili village and Mandal to the fourth respondent. Sarpanch of the Gram Panchayat made an application in 2003 to cancel the patta on the ground that the MRO did not publish the notice inviting objections and that no objection from Gram Panchayat was not obtained. The MRO cancelled the assignment, against which the fourth respondent filed W.P.No.22792 of 2003 before this Court. This court directed the MRO to pass fresh orders treating the order of cancellation as a show cause notice to the fourth respondent. Accordingly, the MRO again submitted proposals for cancellation of house site patta along with the

explanation submitted by the fourth respondent. While the same was pending, the MRO sent a report to the Joint Collector to the effect that the site is classified as village site Poramboke and that the same is being used by the fourth respondent for vegetable business and for residential purpose. In view of the same, after considering the explanation of the fourth respondent, the first respondent directed to drop all further action against the fourth respondent.

Learned counsel for the petitioner vehemently contends that when the property is vested in the Gram Panchayat, the same could not have been assigned to fourth respondent without obtaining the consent of the Gram Panchayat and without therebeing a resolution by the Gram Panchayat. He placed reliance on Sections 55 and 58 of A.P.Panchayat Raj Act, 1994 (the Act, for brevity).

As seen from the impugned order, the house site assigned to fourth respondent formed part of village site Poramboke in survey No.205 of Podili village. A reading of Sections 55 or 58 of the Act, on which reliance is placed, would show that the village site Poramboke does not vest in Gram Panchayat. Be it noted, under Section 55 of the Act, if any property by custom belongs to the villagers in common, such property shall vest in the Gram Panchayat. Under Section 58 of the Act, only grazing grounds, threshing floors, burning and burial grounds, cattle stands, cart-stands and topes vest in the Gram Panchayat though they are at the disposal of the Government but not required by them. Village site Poramboke by the very nature, as per the Board Standing Orders, is intended for providing house sites and for future expansion of the village, and therefore, Gram Panchayat has no say in the matter of assignment of village site Poramboke.

The writ petition, for the above brief reasons, is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

01.08.2006
pln